

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

United States District Court  
Southern District of Texas

Martin Fatery,

Plaintiff,

versus

Ducati North America, Inc.,

Defendant.

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Civil Action H-17-358

**ENTERED**

May 24, 2019

David J. Bradley, Clerk

Exclusion Order

Byron Bloch may not testify in this case. His report is speculative, conclusory, and fails to consider or disprove alternative causes despite admitting that the motorcycle could have leaked fuel in other ways. Nor does Bloch offer evidence that his proposed “safer alternatives” were available in 2004, the year the motorcycle was manufactured. An engineering degree would not cure these defects and Bloch’s lack of one does not affect this decision.

Bloch has not tested his theory or his “safer alternative” designs, he has not reconstructed the accident, and he does not know the motorcycle’s speed when it crashed. His peers have not reviewed his opinions. He has no scientific studies to support his opinions other than: (a) one report published 23 years before the motorcycle was manufactured and (b) a motorcycle design guide, published five years after the motorcycle was manufactured, that says that a stationary fall should not rupture a motorcycle’s fuel tank. This was not a stationary fall, Martin Fatery was speeding and swerving between lanes when he rear-ended an SUV. Bloch’s assertion that the fuel tank could have been designed safer because other Ducati North America, Inc., motorcycle models have a safer fuel tank is misguided – those models were manufactured in 2008, Fatery’s motorcycle was manufactured in 2004.

Bloch has many opinions but little data supporting those opinions. Because none of Bloch’s opinions are reliable, he may not testify. (25)

Signed on May 24, 2019, at Houston, Texas.

Lynn N. Hughes  
United States District Judge